III. Response to Restriction Requirement

Applicants hereby elect, without traverse, Group VI (claims 21-36), directed to methods of enhancing an immune response in a mammal comprising administering chemokine MCP-4 or a biologically active fraction thereof to said mammal. Accordingly, please cancel Claims 1-20 and 37-66 without prejudice.

The Examiner has also required election of a single disclosed species, comprising bacterial, viral, and fungal antigens, from claims 29 and 30. Of this group, Applicants elect the species represented by viral antigens with traverse.

The Examiner's attention is drawn to MPEP § 806.04(f), which states:

> "Claims to be restricted to different species must be mutually exclusive. The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first. This is frequently expressed by saying that claims to be restricted to different species, must recite the mutually exclusive characteristics of such species."

Unity of invention, such as to preclude restriction, has been deemed to exist among substances which have a common function and such substances may be recited in a single claim as a Markush group. *See In re* Harnisch, 631 F.2d 716, 206 USPQ 300 (CCPA 1980). The opinion in that case set forth guidelines for determining whether or not a Markush group is proper. Broadly, the determinative factor was held to be whether there existed "unity of invention" or whether the claims were drawn to a collection of "unrelated inventions." Specifically, the claims in that case were drawn to a class of compounds all of which were both disclosed and claimed as being "useful as dyestuffs." All of them were also both disclosed and claimed as being "coumarin compounds." Thus, all of the claims had in common a functional utility related to a feature disclosed as being essential to that utility.

In the present case, claims 29 and 30 depend from generic claims 25, which introduces the method step of "administering an antigen with said chemokine." Claims 29 and 30 simply enumerate subtypes of antigens, defined by their origin (viral, bacterial or